

From: [Peak, Nicholas](#)
To: ["Mark Ryan"](#)
Subject: RE: Setback information
Date: Wednesday, January 12, 2022 1:26:00 PM
Attachments: [image001.png](#)

Mark, I was able to speak with Courtney today regarding the question you had on the permit modification. Short answer is, no, the dairy would not be able to avoid complying with the modifications made to the permit because that dairy would be able to submit public comments on those provisions.

I sent the setback information to Matt as well this morning.

Nick Peak

Agriculture Advisor

EPA, Region 10

208-378-5765

peak.nicholas@epa.gov

From: Mark Ryan <mr@ryankuehler.com>
Sent: Wednesday, January 12, 2022 10:53 AM
To: Peak, Nicholas <Peak.Nicholas@epa.gov>
Subject: Re: Setback information

Thanks, Nick.

Please note that my new email address is mryanboise@msn.com.

-Mark



Mark A. Ryan
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From: Peak, Nicholas <Peak.Nicholas@epa.gov>
Sent: Tuesday, January 11, 2022 2:54 PM
To: Mark Ryan <mr@ryankuehler.com>
Subject: Setback information

From Section II.B.8 of the permit, Effluent Limitations for the Land Application Area

8. Land application setback requirements. Unless the permittee exercises one of the compliance alternatives of this section as provided below in (a) or (b), manure, litter, and process wastewater may not be applied closer than 100 feet to any down-gradient surface waters, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters.

- a. Vegetated buffer compliance alternative. As a compliance alternative, the CAFO may substitute the 100-foot setback with a 35-foot wide vegetated buffer where applications of manure, litter, or process wastewater are prohibited.
- b. Alternative practices compliance alternative. As a compliance alternative, the CAFO may demonstrate that a setback or buffer is not necessary because implementation of alternative

conservation practices or field-specific conditions will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100-foot setback. Alternative conservation practices can include practices that are designed in consultation with a Professional Engineer licensed in the state of Idaho. Alternatively, an adequate demonstration may include the use of site-specific data using a tool such as the Idaho NRCS Water Quality Technical Note #6, Idaho Nutrient Transport Risk Assessment (INTRA) (Appendix E) or the Idaho Phosphorus Site Index (Appendix I) and associated implementation of alternative conservation practices recommended as a result of these tools.

From Section § 412.4(c)(5) of the NPDES Regulations, § 412.4 Best management practices (BMPs) for land application of manure, litter, and process wastewater.

(5) Setback requirements. Unless the CAFO exercises one of the compliance alternatives provided for in paragraph (c)(5)(i) or (c)(5)(ii) of this section, manure, litter, and process wastewater may not be applied closer than 100 feet to any down-gradient surface waters, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters.

(i) Vegetated buffer compliance alternative. As a compliance alternative, the CAFO may substitute the 100-foot setback with a 35-foot wide vegetated buffer where applications of manure, litter, or process wastewater are prohibited.

(ii) Alternative practices compliance alternative. As a compliance alternative, the CAFO may demonstrate that a setback or buffer is not necessary because implementation of alternative

From the NPDES Permit Writers' Manual for Concentrated Animal Feeding Operations, see the attached pdf I created.

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